

### **Dispute Resolution:**

To create ONMB Dispute Resolution policies, two questions must be considered:

1. ***Who should respond to a dispute?***
2. ***How will they respond to the dispute?***

Answering these questions requires an understanding of jurisdiction, authority, and relationship.

### **Understanding the Importance of Jurisdiction:**

In any dispute, it is important to understand who has jurisdiction to make decision and the authority to exercise judgments. While some laws apply to all individuals (e.g. criminal law), other regulations are often based on the kind of relationship (e.g. employer and employee). In many situations, jurisdictions overlap which results in multiple levels of dispute resolution that invoke different regulations.

### **Definitions:**

Following are some definitions for the word *jurisdiction*:

- the extent of the power to make decisions and judgments
- the power, right, or authority to interpret and enforce judgments
- the limits within which authority may be exercised.

Following are some definitions for the word *authority*:

- the power or right to give orders, make decisions, and enforce obedience
- a person or organization having power or control in a particular, typically political or administrative, sphere.

Following are some definitions for the word *relationship*:

- the way in which two or more concepts, objects, or people are connected, or the state of being connected
- the way in which two or more people or groups regard and behave toward each other.

### **What is a jurisdiction framework?**

A jurisdiction framework is meant to provide an overview or picture of what authority or authorities may or may not be applied in different situations as it relates to the MB churches in Ontario. Specifically,

- *To what extent can an organization, the ONMB, exercise its authority over an individual (credential holder) or organization (church) based upon their denominational relationship.*

A jurisdiction framework can help the ONMB understand an order of operations to follow when disputes arise, i.e. what jurisdiction should be invoked first and when can ONMB become involved. It can also provide a broader context of what other authorities exist and how they might be enforced.

### **What is an example?**

Consider a situation in an ONMB church when a staff member feels that he/she has been mistreated by the lead pastor. In this example, the relationship involves church employees as well as a credentialed individual. The following levels of dispute could be invoked depending on the severity of mistreatment:

- i. As brothers and sisters in Christ, the two individuals can seek to resolve the dispute informally.
- ii. The dispute could be raised with the elders/board of the church.
- iii. The dispute could be raised with the ONMB Board under a code of conduct violation of a credentialed minister.
- iv. The dispute could result in a formal complaint under the Occupational Health and Safety Act depending on the nature of the mistreatment of the employee.

## ONMB Dispute Resolution & Jurisdiction Framework

- v. The dispute could result in a formal complaint under the Ontario Human Rights Code depending on the nature of the mistreatment of the employee.
- vi. The dispute could result in criminal charges depending upon the nature and severity of the mistreatment.
- vii. The dispute could result in a civil lawsuit between the individuals.

### **Federal and Provincial Laws and Jurisdictions:**

There are different categories of law that may apply to a particular situation:

- criminal law covers items such as sexual assault
- constitutional law covers human rights and freedoms
- corporate law covers administration of organizations
- civil law covers private disputes between individuals.

When a dispute involves an employer and/or employees, the following legislation may be involved:

- Employee Standards Act (ESA)
- Occupational Health and Safety Act (OHSA)
- Ontario Human Rights Code (OHRC)

When churches are incorporated, the church is subject to the:

- Ontario Corporations Act (OCA)
- Church Constitution, Bylaws and officially enacted corporate policies.

As a registered charity, the church is subject to the:

- Canadian Income Tax Act (ITA)

NOTE: While charities are registered federally with the Charities Directorate of the Canada Revenue Agency (CRA), supervision is provincial. The Ontario Office of the Public Guardian and Trustee (OPGT) is responsible for regulation of charities operating in Ontario.

The federal and provincial jurisdictions are defined within the laws themselves and the laws include such concepts as statute of limitations or the period of limitation for the bringing of legal action.

### **Local Church Jurisdiction:**

When is a dispute to be resolved by the local church and when does the ONMB Conference become involved? Again, authority and relationship help to understand jurisdiction.

- i. When a dispute involves members of a local congregation, and/or the staff within the local church, it is normally the responsibility of the local church. As noted above, the local church must honor both federal and provincial jurisdictions.
- ii. When a dispute involves a credential holder, the ONMB Conference may become involved if a satisfactory resolution has not been reached by the local church.
- iii. When a dispute involves the Confession of Faith, the ONMB Conference may become involved if a satisfactory resolution has not been reached by the local church.
- iv. When a dispute involves the church leadership such that the local church cannot resolve the dispute, the ONMB Conference may become involved as an objective third party.
- v. When a dispute involves the church as a whole, the ONMB Conference may become involved as it relates to the reputation of the MB conference and denomination.

Churches with employees, volunteers and/or ministries working with vulnerable individuals (e.g. children) are required to have workplace and safe place policies. This is the responsibility of the local church. It is desirable that disputes are resolved at the local church level.

**ONMB Conference Jurisdiction:**

An Ontario Conference Member Church holds membership in the Canadian MB Denomination and would be subject to the following:

- Canadian MB Confession of Faith
- CCMBC Bylaws & Policies
- ONMB Bylaws & Policies
- their own Local Church Constitution, Bylaws & Policies

**Oversight of MB Churches:**

The organizational authority of the national and provincial MB conferences as it relates to MB churches comes from a membership relationship. When a church joins the MB conference, it agrees to become subject to the conference membership requirements. The membership requirements are defined in the CCMBC Bylaw & Policies and ONMB Bylaw & Policies. This includes the *“Family Covenant Of the Ontario Conference of MB Churches”*.

**Oversight of Credential Holders:**

Individually, the ONMB Conference offers credentialing to pastors and other ministry workers. A credential holder is subject to the *“Code of Christian Conduct”*.

**Oversight of Other Individuals:**

To the extent that an individual has a direct, recognized relationship with the ONMB, such as being a board or committee member, that individual is subject to the authority of the ONMB Conference.

**Additional Considerations for ONMB Jurisdiction:**

**Complainant:** For the ONMB to begin an investigation into a matter, it would be important to have a formal complaint filed by an individual or organization. The ONMB cannot force individuals to act as witnesses in an investigation as it does not have subpoena authority.

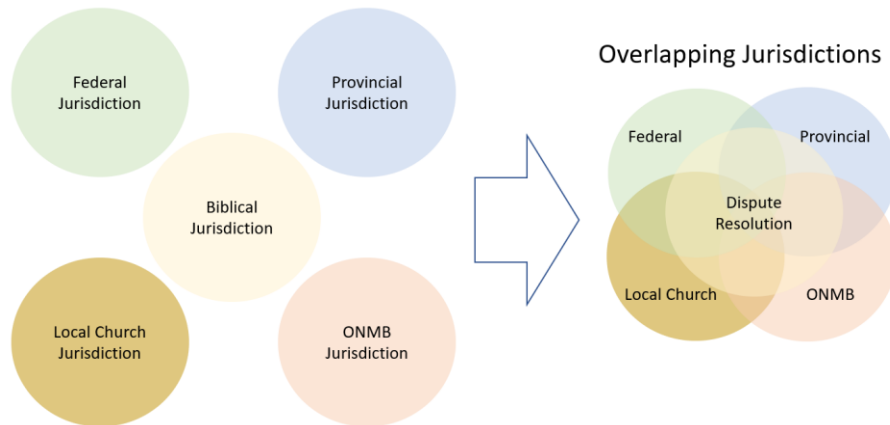
**Statute of Limitations:** The period of limitation for the bringing of action related to a matter may, in some circumstances, be constrained by the membership relationship. If a church has already left the denomination and a matter is raised, the ONMB no longer has authority over that church. Likewise, ONMB has limited authority over an individual that is no longer holding credentials with ONMB.

**Termination of Relationship:** Once a complaint has been received or an investigation is initiated, policies must determine if a church or individual is allowed to terminate its relationship to avoid a ruling of the ONMB Board.

**Biblical Jurisdiction:**

Typically, one or both parties in a dispute are Christians and members of the church. The bible teaches on many topics dealing with sin, peacemaking, conflicts, and even lawsuits. While Matthew 18 is frequently cited in dispute resolution, it is just one of a number of passages offering wisdom. (Note: Matthew 18 applies specifically to situations of sin in the church involving witnesses.) Dispute resolution following a biblical model is typically an informal process that involves grace, forgiveness, mature faith and guidance by the Holy Spirit. An informal process may be used before any other jurisdictions are involved.

**Overlapping Jurisdictions:**



As noted, jurisdictions will often overlap which simply means that the dispute could be handled in a number of different ways. If two individuals can informally resolve their dispute, the local church and ONMB may not become involved. When federal or provincial jurisdictions are involved, the process will involve formal policies and procedures under guidance of the appropriate legislation.

**Defining the Dispute:**

When a dispute is brought to the attention of the ONMB staff or its board, the following are some of the preliminary steps to be considered before launching a full and formal investigation:

- Step 0: **PRAYER:** In all things pray. Before beginning, and during each step, seek the LORD in prayer. Pray for His wisdom and His revelation. Let the Spirit reveal and be a guide in each step.
- Step 1: **WHO:** As best as possible, seek to identify all of the parties involved in the dispute and what are each of their roles. Think broadly to identify both those directly involved as well as those who might be indirectly impacted. The WHO needs to be understood to properly identify the relationships and then authority.
- Step 2: **WHAT:** As best as possible, describe the nature of the dispute to discern what jurisdictions might be involved. Pay careful attention to any immediate actions that might be required in the case of an individual who is considered to be at risk and must be protected. Also consider when and where the dispute occurred because it can impact jurisdiction.
- Step 3: **PATHWAYS:** Based on steps 1 and 2, an initial pathway can be discerned based on the jurisdiction(s) which may apply. Again, overlapping jurisdictions may mean that more than one level of dispute resolution could be triggered. Be sure to seek legal counsel if federal or provincial jurisdictions might be involved. Recognize that the pathway may have to be changed as additional information is discovered.